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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,151	06/13/2001	Joseph M. Cannon	51-49-7	7432

7590 02/26/2004

Docket Administrator Agere Systems Inc.  
P.O. Box 614  
Berkeley Heights, NJ 07922-0614

EXAMINER
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PEREZ GUTIERREZ, RAFAEL

ART UNIT	PAPER NUMBER
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2686

13

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/880,151

**Applicant(s)**

Cannon et al.

**Examiner**

Rafael Perez-Gutierrez

**Art Unit**

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,5-7,23,31,33-37 and 39-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-7,23,31,33-37 and 39-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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### DETAILED ACTION

1. This Action is in response to Applicant's request for reconsideration filed on November 7, 2003. **Claims 1, 5-7, 23, 31, 33-37, and 39-45** are still pending in the present application. **This Action is made NON-FINAL.**

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claim 1 and 5-7** are rejected under 35 U.S.C. 102(b) as being anticipated by **Inagami (U.S. Patent # 4,884,294)**, of record.

Consider **claim 1**, Inagami clearly shows and discloses a cordless telephone (figures 2-4 and column 1 lines 9-13), comprising:

a base unit 5 (figures 2 and 4), including a PAGE PBS (push button switch) (paging mechanism) (column 4 lines 2-4); and

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a handset 1 (figures 3 and 4), including a discrimination sound generation circuit (combination of sound controller 20, amplifier 31, and sound generator 32) (alerting mechanism) (figure 4 and column 4 lines 35-37) responsive to the PAGE PBS (push button switch) (paging mechanism) (figure 8 step 02, column 5 line 54 - column 6 line 6, and column 7 lines 12-16),

wherein the handset 1 (figures 3 and 4) includes a sound controller 20 (page adjusting mechanism) (figure 4) to affect the sound level (characteristic) of a page alerting signal output from the discrimination sound generation circuit (combination of sound controller 20, amplifier 31, and sound generator 32) (alerting mechanism) based on a condition (e.g., whether or not a user is talking into the handset or holding the handset, or based on the distance between the user (e.g., when pressing the PAGE PBS (push button switch) (paging mechanism) at the base unit 5) and the handset 1) (figures 2-4 and 8, column 5 line 54 - column 6 line 6, and column 7 lines 1-50).

Consider **claims 5-7**, Inagami further shows and discloses that the sound controller 20 (page adjusting mechanism) (figure 4) affects the alerting signal to have a duration, volume, or tonal quality based on an estimate of the distance between the base unit 5 and the handset 1 (figures 2-4 and 7d, column 6 lines 24-31, and column 7 lines 1-50).

4. **Claims 31 and 33-37** are rejected under 35 U.S.C. 102(a) as being anticipated by **Hardouin (EP # 0 876 040 A1)**, of record.

Consider **claims 31 and 33-35**, Hardouin clearly shows and discloses a method for

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affecting a ringer (alerting) signal of a wireless (telephone) handset 111 (abstract, figures 1 and 3), comprising the steps:

sensing a condition (e.g., background noise or signal strength) related to the location of the handset 111 (column 1 lines 30-37 and column 3 lines 30-44); and

affecting a characteristic (e.g., volume) of the ringer (alerting) signal based on the sensed condition (e.g., background noise), wherein the location is sensed relative to a corresponding base station (unit) (figures 4-7 and column 4 line 6 - column 5 line 18), wherein the characteristic is volume (column 1 lines 30-37 and column 4 lines 6-10), and wherein the condition is the wireless handset's 111 (transceiver) transmission signal strength indication as received by the base station (unit) (i.e., by means of said indication the base station (unit) inherently knows that the handset 111 is in its serving area) (column 3 lines 22-35).

Consider **claims 36 and 37**, and **as applied to claim 35 above**, Hardouin also shows and discloses an RF transceiver 217 (wireless transceiver) that is part of a wireless (cordless) base station (unit) 101 associated with the handset 111 (figure 2 and column 3 lines 9-44).

### ***Claim Rejections - 35 U.S.C. § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have

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been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. **Claims 23 and 39-41** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Inagami (U.S. Patent # 4,884,294)** in view of **Dennerlein et al. (U.S. Patent # 5,117,504)**, newly cited.

Consider **claims 23 and 39-41**, Inagami clearly shows and discloses a method of affecting a page alerting signal of a telephone handset 1 (figures 3 and 4), comprising the steps:

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sensing a condition related to a location of the handset 1 (i.e., the distance between the user (e.g., when pressing the PAGE PBS (push button switch) (paging mechanism) at a base unit 5) and the handset 1) (figures 2-4 and 8, column 5 line 54 - column 6 line 6, and column 7 lines 1-50); and

affecting the sound level (characteristic) of the page alerting signal based on the sensed condition (figures 2-4 and 8, column 5 line 54 - column 6 line 6, and column 7 lines 1-50).

However, Inagami does not specifically disclose that the sensed condition is a signal delay measurement related to a signal from a wireless transceiver.

Dennerlein et al. clearly disclose that it is known to compute the distance between a stationary radio unit (e.g., base unit), having a corresponding wireless transceiver, and an associated mobile telephone handset using signal delay measurements (column 1 lines 20-33).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the method of Inagami with the teachings of Dennerlein et al. to affect the page alerting signal in dependence of signal delay measurements since they provide an accurate estimation of distance between a base unit and a telephone handset.

7. **Claims 42-45** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Inagami** (U.S. Patent # 4,884,294) in view of **Alvarez et al.** (U.S. Patent # 5,805,667), newly cited.

Consider **claims 42-45**, Inagami clearly shows and discloses a method of affecting a page alerting signal of a telephone handset 1 (figures 3 and 4), comprising the steps:

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sensing a condition related to a location of the handset 1 (i.e., the distance between the user (e.g., when pressing the PAGE PBS (push button switch) (paging mechanism) at a base unit 5) and the handset 1) (figures 2-4 and 8, column 5 line 54 - column 6 line 6, and column 7 lines 1-50); and

affecting the sound level (characteristic) of the page alerting signal based on the sensed condition (figures 2-4 and 8, column 5 line 54 - column 6 line 6, and column 7 lines 1-50).

However, Inagami does not specifically disclose that the sensed condition is an error related measurement related to a signal from a wireless transceiver.

Alvarez et al. clearly disclose that bit error rates (error related measurement) increase as a function of distance between a cordless base unit 30, having a corresponding wireless transceiver, and an associated cordless telephone handset 50 (i.e., by using bit error rates the distance can be computed) (figures 2 and 3, column 3 lines 1-15 and 51-55, column 6 lines 15-38, and column 6 line 65 - column 7 line 13).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the method of Inagami with the teachings of Alvarez et al. to affect the page alerting signal in dependence of error related measurements since they provide an accurate estimation of distance between a base unit and a telephone handset.

***Response to Arguments***



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8. Applicant's arguments with respect to **claims 1 and 5-7** have been considered but are moot in view of the new grounds of rejection.

***Conclusion***

9. Any response to this Office Action should be **faxed to (703) 872-9306 or mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Hand-delivered responses** should be brought to

Crystal Park II  
2021 Crystal Drive  
Arlington, VA 22202  
Sixth Floor (Receptionist)

10. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rafael Perez-Gutierrez whose telephone number is (703) 308-8996. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Marsha D. Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

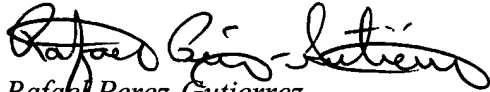
Any inquiry of a general nature or relating to the status of this application or proceeding

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should be directed to the receptionist whose telephone number is (703) 305-4700 or call customer service at (703) 306-0377.

A handwritten signature in black ink, appearing to read 'Rafael Perez-Gutierrez', written in a cursive style.

*Rafael Perez-Gutierrez*

R.P.G./rpg **RAFAEL PEREZ-GUTIERREZ**  
**PATENT EXAMINER**

February 22, 2004